



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

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Dear Mr. Segal,

This letter is in response to our conversation on December 21, 2006, during which you specifically commented on the reclamation of material removed from crude oil storage tanks. We then met again on January 10, 2007, along with your client Monica Mills of Wayne Glenn Associates, Inc. to further discuss this matter. At issue is how the federal hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) apply to both the material removed from crude oil storage tanks, and the residuals from recycling this material.

In the January 10, 2007 meeting, you and Ms. Mills described the various steps and processes involved in purchasing, transporting and processing petroleum-bearing materials from crude oil storage tanks (i.e., crude oil containing certain amounts of water and sediment) in order to produce a marketable petroleum product that is sold into the fuel oil markets. Ms. Mills also described her plans to manage any residuals generated from this processing by thermally treating them at a RCRA subtitle C hazardous waste facility.

After reviewing the information you provided, and prior written determinations from the Texas Commission on Environmental Quality (TCEQ) and the Louisiana Department of Environmental Quality (LA DEQ),¹ we believe that the states have already answered your questions regarding material removed from crude oil storage tanks that you purchase and reclaim into other fuel products. After what appears to have been thorough evaluations in response to Ms. Mills original requests, the TCEQ and the LADEQ cited their respective exclusions from the definition of solid waste for off-specification commercial chemical products being reclaimed, as well as the status of residuals that are generated during the reclamation of this material. However, I would like to clarify one aspect of the status of these residuals that are generated from processing the off-specification crude oil.

In a prior rulemaking, EPA identified "crude oil tank sediment from petroleum refining operations" as a listed hazardous waste (waste code K169 -- see August 6, 1998 *Federal Register*; 63 FR 42110). During that rulemaking, EPA's finding was that where these tank sediments are removed

¹ Letter dated 4/29/03 from Scott Green, TCEQ, to Monica Mills; letter dated 12/08/03 from Linda Korn Levy, LADEQ to Monica Mills. As these letters were addressed to Ms. Mills, I have not enclosed them here.

and discarded, they are the listed hazardous waste K169. EPA also said that where these materials are de-oiled at the time they are removed from the tank, the recovered oil sent back to the refining process is not a waste, and the discarded residuals are identified as the listed hazardous waste K169.² However, the hazardous waste listing only potentially applies where the crude oil tanks are located at, or affiliated with,³ a petroleum refinery (in contrast, where crude oil storage tanks are not located at, or affiliated with, a petroleum refinery, the K169 hazardous waste listing does not apply to the discarded tank sediments).

Where these crude oil tank materials are reclaimed and not a solid waste (as per the state determinations), the residuals generated during the reclamation process are newly generated at the point they exit the reclamation process. If the tank is located at or affiliated with a petroleum refinery, and the tank materials are reclaimed on-site at the petroleum refinery (such that any residuals to be discarded are generated at the refinery as well), these generated residuals would meet the K169 hazardous waste listing description. If, however, the crude oil tank materials were removed from the crude oil storage tank and sent off-site for legitimate reclamation, they would not be a solid waste (again following the state determinations for off-specification products being reclaimed), and the residuals generated from the reclamation of this material would represent a new point of generation. Thus, these residuals would not meet the K169 hazardous listing and would only need to be assessed for the RCRA hazardous waste characteristics. Finally, no listings apply to discarded tank sediments for crude oil storage tanks *not* located at or affiliated with a petroleum refinery, and one need only evaluate the residual for hazardous waste characteristics.

Of course, state hazardous waste programs may be more stringent than the federal program. So, I encourage you and Ms. Mills to continue consulting with the appropriate state agency if you have additional questions. If you have any further questions concerning this letter, please contact Ross Elliott at 703-308-8748.

Sincerely yours,



Robert W. Dellinger, Director
Hazardous Waste Identification Division

Cc: Ms. Monica Mills
Michele Peace, EPA Region 6

² See *Proposed Rule Response To Comment Document, Part III, June 1998 p. IV-2* (Item S0005, EPA Docket F-98-PRLF-FFFFF). Also, if these de-oiled residuals were oil-bearing hazardous secondary materials suitable for insertion into the petroleum refining process, rather than being discarded (i.e., they still contained recoverable hydrocarbon suitable for quench-coking), the residuals could be excluded from the definition of solid waste under a separate exclusion not discussed here (40 CFR §261.4(a)(12)(i)).

³ The term "affiliated" is used by EPA to clarify the scope of the K169 listing to include tank sediments from tanks containing crude oil that are owned by the refinery and used in refinery operations, including tanks that are either on the refinery site, or at tank storage areas owned or under contract to the refinery. See August 6, 1998 *Federal Register* (63 FR at 42151-52).